

# **L A W S**

OF THE

## **STATE OF MAINE;**

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

**WITH AN APPENDIX.**



HALLOWELL:  
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**EXHIBIT G (Rivas)**

## CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases.

SEC. 1. **BE** it enacted by the Senate, and House of Representatives, in Legislature assembled, That it shall be within the power, and be the duty of every Justice of the Peace within his county, to punish by fine exceeding five dollars, all assaults and batteries that are not of a high and aggravated nature, and to examine into all homicides, murders, treasons, and felonies done and committed in his county, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terror of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require; and for his keeping the peace, and being of the good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognize, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

General jurisdiction of Justices of the Peace, and their duty in criminal cases, in arresting, trying, recognizing and committing offenders.

Sec. 2. *Be it further enacted,* That all fines and forfeitures accruing for the breach of any bye-law, in any town within this State, may be prosecuted for, and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

Breaches of the bye-laws of towns may be prosecuted before Justices of the Peace.

Sec. 3. *Be it further enacted,* That any person aggrieved at the sentence given against him, by any justice of the Peace, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, and all writings filed before the Justice, at the Court appeal-

Persons aggrieved may appeal to the C. Court of Com. Pleas.

Must recognize with sureties,

and produce copies of case at C. C. Common Pleas.

Failing to prosecute his appeal, his default to be entered.

Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

Justices may command assistance of sheriff, deputies and constables at riots, affrays, &c.

Justices may, on their own view, (in absence of sheriff, deputies or constables,) require any person to apprehend offenders.

Penalty for refusing to obey such Justice.

If the Justice be known or declared—plea of ignorance of his office not admissible.

Justices may grant subpoenas for witnesses in criminal cases:

But not on behalf of the State without consent of Attorney General, or County Attorney, except before himself.

Justices to account annually to State, County and Town Treasurers for all fines, &c.

Penalty for neglect.

ed to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against him, with all additional costs.

SEC. 4. *Be it further enacted,* That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing such assistance, in a sum not exceeding six dollars; to be disposed of for the use of the town where the offence shall be committed; and levied by warrant of distress on the offender's goods and chattels, and for want thereof on his body.

SEC. 5. *Be it further enacted,* That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable,) to require any person or persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

SEC. 6. *Be it further enacted,* That Justices of the Peace within their respective counties, be, and they are hereby authorized and empowered to grant subpoenas for witnesses in all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves or any other Justice: *Provided,* That no Justice of the Peace shall grant subpoenas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

SEC. 7. *Be it further enacted,* That the Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong.

SEC. 8. *Be it further enacted,* That all civil actions, where- Justice's juris-  
in the debt or damage does not exceed twenty dollars, (and diction in civil  
wherein the title of real estate is not in question, and special- actions, (where  
ly pleaded by the defendant,) shall, and may be heard, tried, title to real es-  
adjudged and determined by any Justice of the Peace within tate is not in  
his county ; and the Justices are severally empowered to grant question,) to  
summons, capias and attachment, at the request of any per- extend to 20  
son applying for the same, directed to some proper officer dollars.  
within the same county, empowered by law to execute the Justices may is-  
same. And such summons or capias and attachment shall be sue summons,  
duly served by such officer, seven days at the least before the capias, attach-  
day therein set for trial, otherwise the party sued shall not be ment, &c.  
held to answer thereon ; and if after such process shall be -to be served  
duly served, the party sued, after being duly called, shall not seven days be-  
appear to answer to the same suit, the charge against him fore trial.  
in the declaration shall be taken to be true, and the Justice shall Proceedings be-  
give judgment against him for such damages as he shall find fore Justice.  
the plaintiff to have sustained, with costs ; and if the person Judgment, &c.  
sued shall appear to defend the suit or oppose the same, the if plaintiff pre-  
Justice shall award such damages as he shall find the plaintiff vail.  
to have sustained : *Provided,* That no more damages than the Damages not to  
sum of twenty dollars shall be awarded in any action origi- exceed 20 dol-  
nally brought or tried before a Justice of the Peace ; but if the lars.  
plaintiff shall not support his action, shall fail to prosecute, or Judgment in  
become nonsuit, the Justice shall award to the party sued, his case defendant  
reasonable costs, taxed as the law directs. And upon all prevail.  
judgments given by a Justice of the Peace in civil actions, he Execution.  
shall award execution thereon in form by law prescribed.

SEC. 9. *Be it further enacted,* That the amount of the sum Justice to have  
or several sums, specified, expressed or supposed to be de- jurisdiction  
manded by the plaintiff in his declaration, shall not be con- where the ad  
sidered as any objection against the Justice's jurisdiction, pro- damnum does  
vided the ad damnum, or damage is not laid or stated to ex- not exceed 20  
ceed twenty dollars. dollars.

SEC. 10. *Be it further enacted,* That any party aggrieved Party aggriev-  
at the judgment of any Justice of the Peace, in a civil action, ed may appeal  
where both parties have appeared and plead, may appeal to C. C. Com-  
therefrom to the next Circuit Court of Common Pleas to be Pleas.  
held within the same county ; and shall before his appeal is -Must recog-  
allowed, recognize with a surety or sureties, in such reasona- nize to prose-  
ble sum as the Justice shall order, not exceeding thirty dol- cute.  
lars, to pay all intervening damages and costs, and to prose- and produce co-  
cute his appeal with effect ; and shall be held to produce a pies at C. C. C.  
copy of the whole case, at the Court appealed to, and both Pleas.  
parties shall be allowed to offer any evidence upon the trial Proceedings in  
at the Circuit Court of Common Pleas, in the same manner as that Court.  
if the cause had been originally commenced there. And no No further ap-  
other appeal shall be had on such action after one trial at the peal.  
Circuit Court of Common Pleas. And the Circuit Court of Defendant in  
Common Pleas, when any person recognized as before men- trespass failing  
to bring for-

ward the action according to his recognition.--Plaintiff to have his damages.

Appellant failing to prosecute, on complaint judgment may be affirmed.

In action of trespass when defendant pleads title to real estate--mode of proceeding before Justice.

Appeal allowed in such cases from C. C. C. Pleas to S. J. Court.

General issue may be plead in all actions before Justices and special matter given in evidence except where title to real estate is relied on by defendant.

Justices may grant subpoenas in all civil actions.

May adjourn their Courts by proclamation:

No Justice to be of counsel in any suit before himself.

tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs which accrued both in the same Court and before the Justice. And the Circuit Court of Common Pleas shall, when any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

SEC. 11. *Be it further enacted*, That when an action of trespass shall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Common Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment; and if such pleader shall refuse so to recognize, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.

SEC. 12. *Be it further enacted*, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

SEC. 13. *Be it further enacted*, That each Justice of the Peace may grant subpoenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

SEC. 14. *Be it further enacted,* That when an executor or administrator shall be guilty of committing waste, whereby he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may proceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

In case of waste by executor or administrator, Justice may proceed as C. C. Pleas may in such cases.

SEC. 15. *Be it further enacted,* That each Justice of the Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. *Provided always,* That either party may appeal from the judgment as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

Justice to keep record of his proceedings.

When Justice shall die before a judgment given by him is satisfied, what proceedings to be had.

Appeal allowed to either party.

Justice to whom complaint is made in such cases, may summon the person possessing the record to produce it.

Punishment for refusal so to do.

Duty of the Justice when the record is produced, to transcribe it into his own records. Copy of such transcript to be evidence.

SEC. 16. *Be it further enacted,* That all Justices of the Peace before whom actions may be commenced under former commissions, and such commissions shall expire before judgment shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace who shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such ac-

Justices, whose commissions expire before judgment or satisfaction, may proceed, under a new commission, seasonably obtained, to render judgment, &c.

RECOVERY OF DEBTS.

tions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.

[Approved March 15, 1821.]

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CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for preventing unnecessary costs attending the same.

Justices may take recognizances for debts.  
SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That every Justice of the Peace in this State shall have power within his county to take recognizances for the payment of debts of any person who shall come before him for that purpose: which recognizance may be in substance as follows:—

Form of recognizance.  
Know all men, that I, A. B. of , in the County of , do owe unto C. D. of , the sum of , to be paid to the said C. D. on the day of ; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at , this day of , in the year of our Lord . Witness, my hand and seal A. B.  
ss. Acknowledged the day and year last abovesaid.  
Before E. F. Justice of the Peace.

To be recorded by the Justice.  
SEC. 2. *Be it further enacted,* That every Justice of the Peace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it to the Conusee; and upon the Conusee's lodging the same with the said Justice, at any time within three years from the time when the same is payable, and requesting a writ of execution, it shall be the duty of such Justice to issue a writ of execution thereon for such sum as shall appear to be due on the same; which writ of execution shall be in substance as follows:

State of Maine.  
(SEAL.) To the Sheriff of the County of , or his deputy, or either of the Constables of the town of , in said County, Greeting.  
Form of execution.  
Because A. B. of , in the County of , on the day of , in the year of our Lord before E. F. Esq. one of the Justices of the Peace for the said County of , acknowledged that he was indebted to C. D. of , in the county of in the sum of which he ought to have paid on the day of , and remains unpaid as it is said : We command you therefore, that of the goods, chattels or real estate of the said A. B. within your precinct, you cause to be paid and satisfied unto the said C. D. at the value